

**SUMMARY OF THE REGULAR MEETING OF THE
ARIZONA STATE RETIREMENT SYSTEM
OPERATIONS COMMITTEE**

**HELD ON
Thursday, October 27, 2005
10:30 a.m., MST**

The Operations Committee (OC) of the Arizona State Retirement System (ASRS) met in regular session in the 14th Floor Conference Room of the ASRS Office, 3300 North Central Avenue, Phoenix, Arizona 85012. Mr. Michael Townsend, Chair, called the meeting to order at 10:30 a.m.

This meeting was teleconferenced to the ASRS Tucson office at 7660 East Broadway Boulevard, Suite 108, Tucson, Arizona 85710.

1. Call to Order; Roll Call; Opening Remarks

Present: Mr. Michael Townsend, Chair
 Mr. Steven Zeman, Vice-Chair
 Dr. Keith Meredith

Excused: Mr. David Byers

A quorum of the Committee was present for the purpose of conducting business.

**2. Presentation, Discussion and Appropriate Action Regarding FY06 Budget
Administration**

Mr. Anthony Guarino, Deputy Director, Chief Operations Officer, and Ms. Martha Rozen, Chief of Administrative Services, discussed the status of expenditures of the FY06 budget appropriations.

The ASRS requested 48 FTEs to handle the projected growth for services in the core business functions of the agency and received approval and funding for 24. The current focus and objective of the agency is to fill as many of the authorized 221 positions as possible by the end of

the first quarter of calendar 2006, and at the same time, reduce the number of temporary workers to no more than 10 at any given time.

The Agency also requested and received the remaining funds associated with the development costs for the Information Technology (IT) Plan, and the appropriations for costs associated with the ongoing operational activities necessary to support new technology. The goal of the agency is to bring the IT consultant staff to full strength of approximately 50 – 55 people.

The Committee discussed the turnover rate for the agency, which at approximately 17 percent is comparable to other state agencies. Between October 1, 2004 and September 30, 2005, there were 31 exits among FTEs, 67 exits among temporary workers and 35 exits among consultants. To reduce that turnover, especially in the Call Center, the ASRS plans to recruit appropriately qualified staff at a higher grade and at higher salaries. Human Resources is also working on improvements to the recruitment process to include ongoing recruitment efforts for some of the positions.

Once the agency's vacancies are filled, the use of alternate staffing strategies (volunteers, part-time staff, retirees) will be further explored.

Mr. Guarino stated that the 2007 budget request will be further reviewed at the January 2006, OC meeting. It is anticipated that by then, we may know of the recommendations by the staff of both the Governor's Office of Strategic Planning and Budget and the JLBC.

3. Presentation, Discussion and Appropriate Action Regarding the Member Appeal Processes

Mr. Guarino explained that members and employers of the ASRS have the right to dispute and appeal agency decisions they believe are wrong and cause them legal harm or loss. The Committee reviewed the following outline of the agency's current dispute resolution and appeals processes which are set up to safeguard member/employer rights by ensuring proper analysis and opportunities for presentation of grievances:

1. Members protesting an agency decision are directed to the appropriate assistant director to resolve disputes.
2. Members may at any time appeal directly to the Director's Office.
3. Members disagreeing with a Director ruling may present their case to an Administrative Law Judge.
4. Members may request a settlement conference before an administrative hearing to resolve appeals.
5. Members disagreeing with the Administrative Law Judge's decision may present their case to the Board of Trustees.
6. The Director may intervene on behalf of a member at any time prior to a case going to the Board.
7. Members or the Board may request a rehearing of a case.
8. Members may appeal the Board decision to the Supreme Court.

Mr. Guarino continued to explain the review process of assistant directors of the agency when members protest a staff decision. He stated that research is conducted to resolve the following questions: was the decision or action taken consistent with current agency/vendor practice; are there written procedures; is there a documented executive policy determination; is there an approved or draft Rule; is there clear legislative guidance; has staff been consistent in applying current practice or procedure; was service and counseling timely, reliable and correct; and, are there precedents to guide a decision? The attorney general staff may then be consulted prior to the assistant director reviewing the research and making his/her determination.

Mr. Guarino also provided an outline of a member appeal at the Director level, which may either be a new case or a follow-up appeal of the assistant director's decision. All cases are researched and reviewed by a staff analyst using the same criteria as assistant director appeals. Staff rulings and any additional member information are fully reviewed by the assistant attorney general staff. The Deputy Director on behalf of the Director reviews the information and the attorney general staff recommendation and makes a determination, using his discretion whether to forward a particular appeal to the Director.

Mr. Guarino described the next step in the appeal process, a hearing before an administrative law judge. Members may also request an informal settlement conference with the ASRS prior to a scheduled hearing in order to present additional information; discuss mitigating circumstances or propose a compromise position. The administrative law judge's recommended decisions are then forwarded to the ASRS Board of Trustees for final disposition unless the Director uses his discretion to intervene on behalf of the member.

When the appeal is brought before the Board of Trustees, the rulings of the administrative law judge, a synopsis of the case and other pertinent materials are presented to the Board during its monthly meetings. The Board may accept, reject or modify the administrative law judge's recommended decision. If the Board accepts or declines to review the judge's recommendation, the recommendation becomes final (subject to court appeal or Board rehearing). If the Board modifies or rejects the recommended decision, it is required by statute to give "... a written justification setting forth the reasons for the rejection or modification." The Board has the following options: to substitute its view of the law for that of the administrative law judge; substitute its opinion for that of the judge on matters of discretion; or, reject findings of fact made by the judge only if the judge's finding is clearly erroneous as demonstrated by new evidence.

Members may request a rehearing by the Board for the following reasons: irregularity in the administrative proceeding; newly discovered material evidence; evidence of misconduct; excessive or insufficient penalties; or, the decision is not justified by the evidence or is contrary to law. Members may also appeal the Board's decision to the Supreme Court.

During fiscal year (FY) 2005, assistant directors addressed 265 member disputes and overturned 119 decisions or 45 percent. The reasons for overturning decisions vary. In some cases, existing policies or procedures were not adequately supported by Rule or legislative language. In others,

mitigating circumstances, which can include untimely or unreliable administration, can cause decisions to be overturned.

Only 23 members or nine percent, whose appeals were denied by assistant directors in FY05 pursued matters further. An additional 198 members took their appeals directly to the Director. Fifty-seven percent of Director level appeals were approved, generally due to mitigating circumstances with little or no broad impact on agency policy. Of the 43 percent whose appeals were denied, 23 members requested a hearing with an administrative law judge and of those, nine reached a settlement with the agency during an informal settlement conference prior to the hearing date. Of the 14 cases that proceeded to a hearing, 12 resulted in the agency's position being upheld, one case resulted in the position being partially upheld, and in one case the administrative law judge reversed the agency's position and granted the members appeal. In one case upheld by the judge, the ASRS Director intervened on behalf of the member prior to the case being sent forward to the Board.

Of the 13 cases sent to the Board, Trustees upheld a law judge's ruling nine times with, at the time of the OC meeting, three cases still pending. The Board exercised its discretionary authority to overturn one decision, and in one case, the Board upheld the law judge's ruling but questioned the fairness of the decision.

Committee discussion followed which resulted in the Committee's request to place the appeals process on the agenda of the Board Strategic Planning Session to be held in early 2006. As part of that presentation, the Committee feels it will be valuable to review an entire appeal packet including correspondence to and from the member on each level of the appeal, and to develop guidelines for their use in reviewing an appeal similar to those staff uses. The Committee also thought that for each appeal brought forth to the Board it would be helpful to have a more detailed outline of the facts supporting the staff decision.

4. Presentation, Discussion and Appropriate Action Regarding Follow Up to Internal Audits

Mr. Bernard Glick, ASRS Chief Internal Auditor reviewed the 2005 agency follow-up audit. The follow-up audit was conducted to ensure that all findings made during the following audits were addressed and corrected. Audits addressed in the follow up included:

- Health Insurance Benefits system report issued to the Board in February 2001.
- Contribution Accounting system report issued to the Board in April 2001.
- Health Insurance Open Enrollment report issued to the Board in September 2001 and January 2002.
- Data Security report issued to the Board in March 2002.
- Long-term Disability report issued to the Board in November 2002.
- 13th Check Processing report issued to the Board in December 2002.
- Rollover Service Purchases report issued to the Board in August 2003.
- Records Management report issued to the Board in March 2004.
- Survivor Benefits report issued March 2004.

Mr. Glick reported the audits are complete with the exception of continued follow up that will be conducted on Health Insurance to ensure that reconciliations are being done monthly, Long Term Disability which is being incorporated into PERIS, and Survivor Benefits which will be part of the new Financial Management System.

5. Presentation, Discussion and Appropriate Action Regarding Follow Up to the 2004 Audit of Actuarial Assumptions, Methods, Data and Calculations

Mr. Guarino stated that in January, 2004, the ASRS hired Milliman USA, Inc. to conduct actuarial audits of the ASRS Pension and LTD Plans. The Milliman audits were overseen by the OC and Executive Staff and on October 15, 2004, the Board of Trustees adopted the Committee's recommendations for the Pension Plan.

Mr. Charlie Chittenden, Actuary, Buck Consultants, the ASRS actuary at the time of the audits, updated the Committee on the status of the Board recommendations regarding the Pension Plan and the LTD Plan audits.

6. Committee Trustee Requests for Agenda Items

None

7. Call to the Public

No members of the public addressed the Committee.

8. Adjournment of the OC

Mr. Michael Townsend adjourned the meeting at 12:07 p.m.

Respectfully Submitted by,

Gayle Norman
Committee Secretary

Date

Anthony Guarino
Deputy Director, Chief Operations Officer

Date